

## AMENDMENTS

### *In the Specification:*

On Page 6, Line 2, delete "30" and insert --50--, delete "34" and insert --54--, and delete "38" and insert --58--.

### *In the Claims:*

Please amend Claim 4 as follows:

4. (Amended) The reclosable fastener profile assembly of claim 1, wherein said compression molded segment seal includes a [severed] severing portion of said first profile strip and said second profile strip [thereby] for cutting said fastener profile and creating an individual profile fastener assembly.

Please cancel Claim 11 without prejudice.

## REMARKS

### **I. Election/Restriction Requirement**

The Examiner identified Groups I and II of claims and required applicants elect one of these groups for examination in the present application. Group I includes claims 1-12 and 18-20; Group II includes claim 13-17 and 21. This affirms that in a telephone conversation with the Examiner on July 24, 2000, applicants' attorney, Robert S. Beiser, provisionally elected, with traverse, to prosecute the claims of Group I. Applicants withdrew claims 13-17 and 21 from further consideration by the Examiner. However, applicants respectfully submit that, at a minimum, Group II could be examined simultaneously and that the subject matter set forth could be searched as a single invention.

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## **II. Drawings**

The Examiner objected to the drawings under 37 C.F.R. 1.83(a) on grounds that they did not show every aspect of the invention specified in the claims. The Examiner stated that the drawings failed to show the “means for forwarding said continuous supply of first profile strip and said continuous supply of second profile strip” claimed in claim 11. In accordance with the Examiner’s suggestion, applicants have cancelled claim 11 and respectfully request that the Examiner’s objection to the drawings be withdrawn.

## **III. Claim Rejections**

The Examiner first rejected claim 4 on 35 U.S.C. § 112, paragraph 2 grounds, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that the structure of claim 4, which requires an individual profile fastener assembly, is inconsistent with the structure of claim 1, which requires a continuous fastener assembly. Applicants have amended claim 4 to comply with 35 U.S.C. § 112, paragraph 2. Inclusion of the “severing portion” of the compression molded segment seal is a further limitation of the structure of claim 1. The severing portion enables the continuous profile fastener assembly to be cut into individual profile fastener assemblies and is consistent with the structure of claim 1.

Next, the Examiner rejected claims 1-12 and 18-20 on 35 U.S.C. § 102(b) grounds. Specifically, the Examiner rejected claims 1-4, 6-12 and 18-20 as being anticipated by Van Erden et al., Patent No. 4,589,145 (“the ‘145 patent”); rejected claims 1-4, 6-8, 10-12 and 18-20 as being anticipated by Tilman, Patent No. 5,024,537 (“the ‘537 patent”); and rejected claims 1-3, 5, 6, 8, 10 and 11 as being anticipated by Tilman, Patent No. 5,071,689 (“the ‘689 patent”).

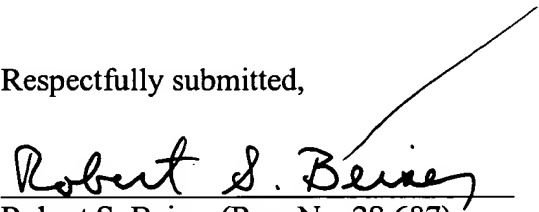
"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." M.P.E.P. § 2131, quoting, Verdegaal Bros., v. Union Oil Co. of Cal., 814 F.2d 628, 631 (Fed. Cir. 1987). None of the references cited by the Examiner disclose "the identical invention in as complete detail as is contained in the ... claim." C.f. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989). Claims 1 and 18 are clearly distinguishable over the cited references. This is because both claims require a compression molded seal segment at the ends of profile strips. The cited references all disclose a spot-seal at the ends of the profile strips. (Col. 7, ln. 12, the '145 patent; Col. 2, ln. 55, the '537 patent; and Col. 2, ln. 64, the '689 patent). Spot-sealing of the profile strips in the cited references does not result in the same type of seal as compression molding. Compression molding involves gradually heating the profile strips and then applying pressure to flatten the ends and form a seal. The compression molding process heats the profile strips to a higher temperature than spot-sealing. The pressure needed to flatten the heated material is reduced and results in less deformation to the remainder of profile strip. In contrast, spot-sealing involves rapidly heating and applying pressure to the profile strips. This results in a flattened portion with pores and channels that comprise the integrity of the seal. Using compression molding ensures that an airtight seal is consistently formed at the ends of the profile strips. Claims 2-10, 12 are all dependent claims further limiting claim 1; claims 19-20 are dependent claims further limiting claim 18. Because the respective base claims are in condition for allowance, the dependent claims should be allowed for the reasons previously stated.

Finally, the Examiner rejected claims 1-3, 5-12 and 18-20 under 35 U.S.C. § 102(e) as being anticipated by Anderson, Patent No. 6,033,113 ("the '113 patent"). The effective date of the '113 patent as a prior art reference under § 102(e) is August 18, 1998. Applicants submit

with this communication a Declaration of Prior Inventorship under 37 C.F.R. §1.131 to overcome the Examiner's rejection by antedating the filing date of the '113 patent. Applicants' submit with the Declaration evidence showing that claimed subject matter was reduced to practice prior to the filing date of the '113 patent.

For the foregoing reasons, applicants respectfully submits that the Examiner's objection to the drawings should be withdrawn and that pending claims 1-10, 12 and 18-20 are in condition for allowance.

Respectfully submitted,

  
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File No. 021276-9044

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
GROUP ART UNIT 3727

In re Patent Application of:

Wright et al.

Serial No. 09/415,696

Filed: October 12, 1999

Title: "RECLOSABLE FASTENER  
PROFILE SEAL AND METHOD  
FORMING A FASTENER  
PROFILE ASSEMBLY"

Attorney Docket No.: 021276-9044

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I, Michael A. Finnegan, hereby certify that this paper  
or fee is being deposited with the United States  
Postal Service as Express Mail on the date of my  
signature and is addressed to the Assistant  
Commissioner for Patents, Washington, D.C. 20231.

Date: August 8, 2001

Examiner: Jes F. Pascua

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**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES  
OR IN A NAFTA OR WTO MEMBER COUNTRY  
TO OVERCOME CITED PATENT OR PUBLICATION (37 C.F.R. §1.131)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

**PURPOSE OF DECLARATION**

1. This declaration is to establish completion of the invention in this application in the United States, at a date prior to August 18, 1998 that is the effective date of the prior art Patent No. 6,033,113 issued to Anderson that was cited by the Examiner.

2. The persons making this declaration are all of the joint inventors.

**FACTS AND DOCUMENTARY EVIDENCE**

3. The invention in this application was reduced to practice prior to the date of August 18, 1998, which is a date earlier than the effective date of the Anderson reference.

4. To establish the date of reduction to practice of the invention of this application, the following attached specimens are submitted as evidence:

Samples of the invention manufactured in April 1998.

From these documents, it can be seen that the invention in this application was reduced to practice on or before May 1998. (At least by the date of August 18, 1998, which is earlier than the effective date of the reference.)

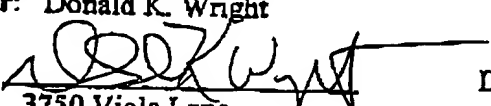
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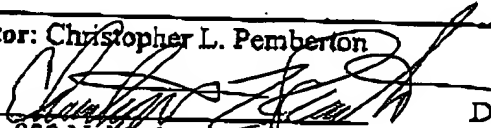
TIME OF PRESENTATION OF THE DECLARATION

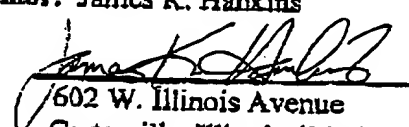
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5. This Declaration is being submitted prior to final rejection in this application.
6. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statement and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

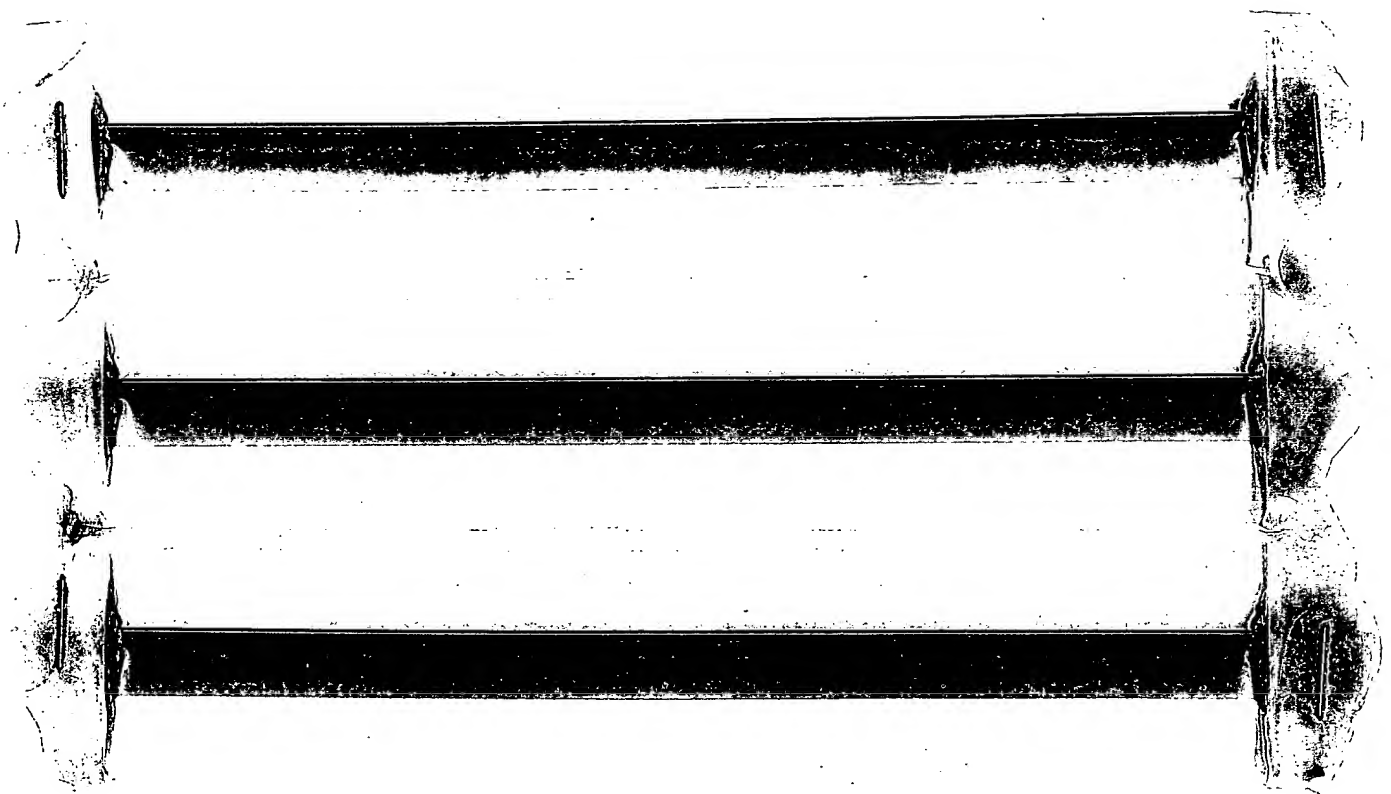
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Serial No. 09/415,696